

JUL 23 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

ARMANDO VASQUEZ-MONTANEZ,

Petitioner,

v.

IMMIGRATION AND NATURALIZATION
SERVICE,

Respondent.

No. 01-71821

Agency No. A92-905-677

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 18, 2003**
Pasadena, California

Before: NOONAN, KLEINFELD, and WARDLAW, Circuit Judges.

Armando Vasquez-Montanez frames his petition as challenging the
Immigration and Naturalization Service's underlying decision to deny his

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

application to adjust his status to become a permanent resident. Because Vasquez-Montanez waived his right to appeal the Immigration Judge's final removal order, and because Vasquez-Montanez's application to adjust his status was untimely, we lack jurisdiction to consider this claim.¹ We, therefore, construe Vasquez-Montanez's petition as challenging the Board of Immigration Appeals's decision denying his motion to reopen.

Because Vasquez-Montanez filed his motion to reopen his immigration proceedings well outside the statutory² and regulatory³ time limits and because he failed to present "new facts," the Board of Immigration Appeals did not abuse its discretion in denying Vasquez-Montanez's motion.

Petition DENIED.

¹ See 8 U.S.C. § 1255a(f). See also Noriega-Sandoval v. INS, 911 F.2d 258, 260 (9th Cir. 1990).

² 8 U.S.C. § 1229a(c)(6).

³ 8 C.F.R. § 3.23.